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SUBJECT: TAXES, LAW AND ORDER TOP KEY'S LEGISLATIVE PROGRAM

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¶1. (SBU) Summary. Prime Minister John Key was quick to enact his initial legislative agenda after coming to power following the 2008 election. As Key had promised prior to the election, his Government swiftly passed a tax cut package and a series of stronger law and order measures. The National-led Government also moved rapidly to unwind aspects of the previous Labour administration's more unpopular legislative legacy. Key has been bound by agreements with minor support parties to introduce or address some contentious legislation, such as the proposed "three strikes" bill and review of the Foreshore and Seabed Act. With its clear parliamentary majority, the Government's legislative program in its first 100 days progressed comfortably through Parliament. His legislative program over the medium term is unlikely to yield any surprises. End Summary.

First Up: Tax Relief

¶2. (SBU) Prime Minister John Key's top legislative objective was to quickly pass into law a tax relief package before the Christmas recess, in keeping with a promise made during the election campaign. The tax cut legislation, which also included changes to the KiwiSaver pension scheme, was comfortably passed on December 11. The legislation stipulates that the first round of cuts will come into effect on April 1 2009, with subsequent rounds in 2010 and ¶2011. Despite calls from the opposition Labour Party to suspend the 2009 round on the grounds that the country cannot afford tax cuts in the current economic climate, Key remains committed to his promise. Key, however, is unwilling to give a categorical assurance that tax cuts promised for 2010 and 2011 will go ahead. (Note: If the Government wishes to defer or abolish future tax cuts it will have to change its own legislation. End Note).

Early Focus on Law and Order Legislation

¶3. (SBU) Strengthened law and order measures have featured prominently in the Government's first 100 days legislative program. Key's pre-election position on introducing tougher law and order measures proved extremely popular with voters anxious about the rising crime rate under Labour. The Government quickly introduced legislation to remove the right of the worst repeat violent offenders to be released on parole. It toughened the bail laws to make it harder for criminals awaiting trial to get bail. The Government also moved quickly to bring in legislation to require DNA testing for every person arrested for an imprisonable offence.

Current Draft of Three Strikes Bill Faces Hurdles

14. (SBU) Under its obligation in the supply and confidence agreement with the hard-right ACT Party, the Government introduced the controversial Sentencing and Parole Reform Bill. The proposed legislation, a key ACT Party policy, is a "three strikes and you're out" measure. It would see those convicted of a third serious offence sentenced to life imprisonment with a 25-year non-parole period. National has reserved judgment on whether it will support the legislation further. Evidence is mounting that the Bill may not proceed as drafted. Chris Finlayson, in his capacity as Attorney-General, has found the three-strikes bill has an "apparent inconsistency" with the section of New Zealand's Bill of Rights protecting New Zealanders against cruel, degrading or "disproportionately severe" punishment. Additionally, the Maori Party, another Government support partner, has come out against the bill in the belief that the legislation would lead to disproportionate sentencing. The Maori Party also believes that the Bill may have a particularly destructive effect on Maori families, many of whom face a greater chance of having a family member imprisoned because of the higher rate of Maori criminal recidivism.

15. (SBU) In its March 6 editorial, The New Zealand Herald called the three-strikes policy flawed as a means of lowering the crime rate and called for the legislation's rejection by a parliamentary select committee. The newspaper urged the Government to fine-tune its law and order policy to find "the right balance between punishing criminals, safeguarding society from those who present too great a risk and providing rehabilitation carrots."

Three Strikes Bill Generates Prison Funding Debate

16. (SBU) The cost of implementing the three strikes legislation has also become a source of debate. Although the Government has not released any figures surrounding the cost of implementing the

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legislation, the advocacy group Rethinking Crime and Punishment Now estimated the cost of implementation (based on its the prediction that new prisons will have to be subsequently constructed to house greater inmate numbers) at around NZD 7.5 billion over 25 years, and an ongoing extra operational cost at NZD 1 billion a year. Key, however, disputed these figures. He argued that the Bill will not necessarily effect a increase in near term prison numbers, as the law change would not be retrospective and by the time an offender was going to jail for a serious offence for a third time they would already be getting a long sentence. Said Key, "(offenders) can't just get put away for stealing chewing gum, they have to have a conviction for a serious offence." The Government is, however, presently considering allowing private-sector operational management of some New Zealand prisons.

GNZ to Review Controversial Foreshore Law

17. (SBU) As part of National's confidence and supply agreement with the Maori Party, Key will establish a three-person panel to complete a ministerial review of the controversial Foreshore and Seabed Act by July 2009. For the Maori Party, the Foreshore and Seabed Act is critical. The Act was passed by the Labour Government in 2004 and confirmed Crown ownership of New Zealand's foreshore and seabed in perpetuity. As a result, tens of thousands of Maori marched on parliament in protest against the law which was viewed by many as a "land grab," taking away private land and customary rights from Maori. Then-Labour MP Tariana Turia left the party in protest at the legislation and formed the Maori Party. The Maori Party will not be satisfied unless the Foreshore and Seabed Act is repealed. Even before coming power, Key recognized the Maori Party's concerns over the Act and had promised to undertake a review of law. The National Party, however, remains committed to its position that it would only agree to the Act's repeal if there were appropriate protection in place to ensure all New Zealanders enjoy access to the foreshore and seabed, either through existing and potentially new legislation.

Unwinding Controversial Labour Legislation

¶8. (SBU) The Key administration has moved quickly to address some controversial laws enacted or strengthened under the previous Labour government. National swiftly repealed the highly controversial Electoral Finance Act (EFA) passed in 2007 to establish strict laws governing financial contributions to politics. The EFA prompted the most acrimonious debate in modern New Zealand politics with then-Labour Prime Minister Helen Clark accused of advancing the legislation for her party's own narrow political purposes. Paradoxically, Clark's successor as Labour Party leader and early backer of the EFA, Phil Goff, expressed regret for the law's enactment and ordered his MPs to vote for its repeal. Out of the 122 MPs, only the nine Green Party members voted against the repeal.

¶9. (SBU) National also moved promptly to address an existing law which was controversially strengthened under the Clark administration, the Resource Management Act (RMA). The RMA was introduced in 1991 to oversee building and development projects from those of national significance down to local council plans and small scale building on individual properties. Under Clark, the law was extended to increase regulation which, inadvertently, invited a rash of frivolous objections to developments. Prior to the election, Key had called the RMA a "handbrake on growth." He quickly introduced legislation to reform the RMA to create greater certainty around developments and stalled projects, and to "unlock that lost growth potential and untangle the red tape suffocating everyone from homeowners to business." Part of the newly proposed legislation to reform the RMA involves the establishment of a new Environmental Protection Authority to expedite consents for major building and infrastructure projects.

Comment

¶10. (SBU) The Key administration's legislative agenda in its first 100 days progressed through parliament with little disruption. This was largely due to its clear voting majority provided by National's support parties and popular public support for the proposed legislation, all of which was well-telegraphed in advance. However, having exhausted his campaign legislative promises Key has not clearly stated what his legislative program will look like in the near term. Differences over the three-strikes legislation will test the National's relationship with ACT and the Maori Party, but it will not derail the Government's hard-hitting law and order program.

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Additionally, the Foreshore and Seabed Act review may further test the National-Maori Party relationship, but not likely to the extent of causing it significant harm. Key has proved to be a pragmatic consensus-builder and looks fully capable of weathering encroaching legislative storms. End Comment.

Keegan